



**Statement of Karl A. Racine
Attorney General for the District of Columbia**



Before the

**Committee on the Judiciary and Public Safety
The Honorable Charles Allen, Chairperson**

**PUBLIC HEARING ON
THE FISCAL YEAR 2018 BUDGET OF THE
OFFICE OF THE ATTORNEY GENERAL**

April 13, 2017

**10:30am
Room 123
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, District of Columbia**

I. Introduction

Good morning Chairman Allen, Councilmembers, and staff. I am Karl A. Racine, and I have the privilege of serving as Attorney General for the District of Columbia. I am honored to have this opportunity to testify regarding the budget for the Office of the Attorney General (OAG).

As you know, the Attorney General serves the residents and government of the District of Columbia as their chief legal officer. OAG conducts the District's law business and provides independent and objective advice to District agencies, the Mayor, and the Council of the District of Columbia. Additionally, OAG is charged with promoting the public interest. OAG carries out its mandate in a number of crucial ways. For example, OAG defends the city in all lawsuits, protecting public dollars from immense potential losses. OAG reviews all legislation, major contracts, and land dispositions for legal sufficiency to ensure the legal soundness of the government's actions. OAG promotes public safety by, among other activities, prosecuting crimes and deterring public nuisances. OAG protects some of the District's most vulnerable children by providing services to those who have been abused or neglected and collecting child support payments to ensure their economic security. And OAG serves as a public watchdog by bringing lawsuits to preserve affordable housing, seek restitution for victims of consumer fraud and wage theft, protect the environment, and prosecute false claims. All told, the Attorney General supervises the legal work of about 298 attorneys and an additional 342 administrative

and professional staff. These employees work every day to make OAG the best public law firm in the country.

Furthering that goal, in this fiscal year—OAG’s third full *fiscal* year as an independent agency— OAG continues to provide an excellent return on the investments made in our agency. In fact, since 2015, OAG has received approximately \$6 million in local dollar enhancements from the Council. During that same time period, OAG lawsuits and other fees collected by the office have totaled nearly \$160 million. This is more than the total money allocated for our office. OAG also assists other District agencies and programs recover funds. In FY 2017, for example, OAG recovered \$4 million in Medicaid funds on behalf of the Department of Health Care Finance and collected \$2.3 million in bond program fees on behalf of the District’s General Fund and Industrial Revenue Bond Enterprise Fund.

In addition to contributing funds directly to the District treasury, OAG plays a critical role in preserving the District’s financial wellbeing by limiting financial exposure to the hundreds of lawsuits filed against the District each year. For example, in FY 2017 the District was a defendant in cases that collectively sought just over \$581 million. Fortunately, my colleagues resolved those cases and paid out only \$41 million, approximately 7.5 percent of the amount sought. Additionally, in the area of tax assessments, OAG lawyers preserved approximately \$83 million by winning tax assessment appeals. Finally, the Child Support Services Division collected \$56 million in support for District children. OAG’s fiscal

contribution to the District in FY 2017 totals over \$680 million, demonstrating OAG's critical role to the District's financial stability that far exceeds the budgetary costs of its services.

I recommend that the public review our current OAG Annual Report for greater detail on the activities and accomplishments of the office. The report can be found on our new, more user-friendly website: oag.dc.gov.

II. OAG Fiscal Year 2019 Budget as Proposed by the Mayor

The Mayor transmitted to the Council a proposed total FY 2019 budget for the Office of the Attorney General of \$106,566,977 and 654.6 full-time equivalents (FTEs). That proposed FY 2019 gross budget represents a five percent increase over its FY 2018 approved gross budget of \$101,484,098. This consists of \$65,842,219 in Local funds, \$23,583,475 in Federal Grant funds, \$548,461 in Private Donations, \$12,819,443 in Special Purpose Revenue funds, and \$3,773,279 in Intra-District funds. Because this proposed budget reflects things such as the District-wide cost of living adjustments, as well as spending authority (not actual dollars) of \$3 million for two special purpose funds,¹ OAG's FY 2019 budget proposal reflects no essential change from the FY 2018 budget.

I would like to publicly thank the Mayor for providing a new position for an elder abuse attorney for the total cost of \$138,833.² This commitment by the Mayor to combating the abuse

¹ The proposed Special Purpose Revenue funds budget includes increases of \$2,000,000 to support litigation services in OAG, and \$1,000,000 to support the newly-established OAG Restitution Fund. The Restitution Fund protects consumers and workers who have been wronged and are unable to recover money because the company assets have been liquidated.

² This includes the personal services amount of \$135,383, as well as \$3,500 to support projected costs associated within the position.

of District seniors is greatly appreciated. As I mentioned in our performance oversight testimony, OAG is an active partner in coordinated community response teams addressing elder abuse, including the District's Collaborative Training & Response for Older Victims (DC TROV) and the Office on Aging's Elder Abuse Prevention Committee. Later in my testimony, I will detail an additional budget request to assist in OAG's elder abuse prosecutions.

The proposed budget also reflects decreases in several OAG funds. To assist with the District's overall budget needs, many of these reductions were made in collaboration with the Executive's budget team. OAG contributed nearly \$1.2 million of one-time funding to the Executive for their priorities. OAG appreciates that it does not exist in a silo, but rather is part of a larger effort to meet the needs of our residents.

As I have said in previous years' budget oversight testimony, while OAG currently provides excellent legal services, continuing to fund OAG as if it were still a subordinate District agency is unsustainable. Ultimately, maintaining a CSFL³ funding approach to OAG will create challenges for the agency because it is inadequate to provide the services and quality of representation District residents want and deserve. I am willing to work with the Committee, Executive, and the Chief Financial Officer to explore alternative budgeting options.

III. OAG's Enhancement Requests

After careful analysis of the agency's needs and considering the substantial enhancements this Council has provided the agency, OAG took very seriously our duty to present to this Committee only the enhancements that are critical to the core mission of the

³ Current Services Funding Level.

agency and greatly bolster outcomes for District residents, businesses, and employees. Our enhancement requests also take into consideration feedback OAG received from our outreach in the community. OAG respectfully proposes local budget enhancements totaling approximately \$1.2 million and 13 full-time equivalent positions (FTEs). OAG fully appreciates that the Council is in a difficult position to fund agency priorities. While the data show that OAG provides a strong return on investment, OAG understands that any locally appropriated dollars it receives, in addition to what the Mayor proposed, will be limited. Therefore, I submitted to the Council a priority list along with the associated funding request. In the interest of time, I will use my testimony to highlight OAG's budget priorities for your consideration.

- OAG requests **an attorney** in OAG's Tax and Finance Section. Adding this position would generate up to \$7 million in annual savings on lawsuit settlements by providing the resources necessary to litigate, rather than settle, marginally meritorious lawsuits challenging real property tax assessments. OAG contends that the addition of this attorney will more than pay for the totality of the agency's FY 2019 enhancement requests. The addition of this attorney would also guard against exceedingly high potential revenue losses; in Tax Year 2017 alone there were over 973 tax refund lawsuits filed, putting over \$30 billion of assessed value at stake. In addition, OAG requests a **paralegal** in the Tax and Finance Section. This addition would decrease the amount of statutorily-imposed interest the District pays on real property tax refunds owed to property owners who file petitions challenging their real property tax assessment by \$1.9 million. Property owners who challenge their real property tax assessment must pay the assessed tax amount but receive six percent interest on any portion of the refund returned as part of a settlement or judgment. The addition of a paralegal would speed all phases of the process.⁴
- OAG requests **three paralegals** in our Family Services and Civil Litigation Divisions to perform case-related paraprofessional tasks including assisting with discovery and witness interviews, subpoenaing records, and assisting with trial preparation. Having paralegals who can perform these critical tasks will allow our attorneys to focus on more complex legal work to protect the District's interests in litigation.
- OAG requests **four staff assistants** to provide critically needed administrative support to our Civil Litigation Division and Public Safety Division, including inputting data into and gathering data from OAG's case management system, copying files,

⁴ From FY 2017 to date, this section worked to close 419 court cases to retain \$83.6 million against real property tax assessment challenges.

scheduling conference rooms, entering requisitions, submitting litigation support payment requests, and managing unit records. Currently, our line attorneys and managers perform far too many of these duties. While OAG attorneys provide top-notch representation, freeing-up as much non-administrative time as possible will provide greater outcomes for residents.

- OAG requests **two case managers** to allow OAG to institutionalize its ATTEND mediation diversion program. This program, conducted in collaboration with the Superior Court of the District of Columbia, identifies and addresses underlying issues causing truancy, connects families to available resources, and enables OAG to avoid filing cases in court. Two case managers would provide operational support, including scheduling mediation dates between parents, school officials, and the mediator; monitoring compliance for the 90-day program period; and making recommendations to attorneys on whether to initiate a court case based on the outcome of the mediation.
- OAG requests an **investigator** to work with our elder abuse attorney to supplement the District's prosecutions of elder abuse, fraud, and neglect, which are currently being handled by the United States Attorney's Office. According to the DC TROV 2015 Needs Assessment, of the approximate 74,000 District seniors aged 65 and over, 7,000 may be experiencing abuse, neglect, and exploitation in the District. This number is consistent with the national average of one in ten elders being victims of abuse. Over half of the respondents to the DC TROV survey also admitted to knowing a senior who has experienced some form of abuse, neglect, or exploitation. Over the past two years, Adult Protective Services referred over 130 cases to the Metropolitan Police Department but, due to a variety of circumstances, none were prosecuted. With an investigator working alongside our attorney dedicated to working on elder abuse cases, OAG can address the financial exploitation of the District's elderly, stem the fraud being perpetrated on our senior population, and better serve the neglected, abused, and often forgotten senior citizens of our city.
- OAG requests **a data statistician**. The statistician will analyze data from various initiatives including ATTEND, I Belong Here, and Alternatives to Court Experience to better inform policy decisions and program operations. In addition, the statistician will look at overall data in OAG's possession to ensure that the office is transparent with respect to information of interest to the public. Having accurate data is critical to the District moving forward with policies that are both cost-efficient and effective for our residents. This is why OAG fully supports enhancement requests to improve the Criminal Justice Coordinating Council's analytical tools, and any District initiative that leads to smarter, well-informed, policies.

I also want to touch on three critical programs and initiatives that need continued support and/or funding in FY 2019.

Safe Shores: The DC Children’s Advocacy Center is a direct service nonprofit organization dedicated to supporting and working directly with child victims of sexual and physical abuse in the District of Columbia. Combating human trafficking and abuse against children is a primary focus of OAG. OAG partners closely with Safe Shores to ensure that children victims of sexual and physical assault are provided the support they need to achieve justice and safety. Prosecutors in OAG’s Juvenile Section rely on forensic interviewers and other staff at Safe Shores to effectively and accurately interview and record information about abuse from children. Indeed, in the past, OAG has co-located a juvenile prosecutor at the Safe Shores facility to be available to observe child interviews as needed. Finally, Safe Shores has provided training for Juvenile Section staff on speaking with child victims. I am happy to work with you, your Council colleagues, and Safe Shores to identify increased support for next fiscal year.

Alternatives to Court Experience (ACE): Because juvenile justice reform has been a top priority for OAG, the Juvenile Section has increased its rate of diversion of low-risk youth to the ACE diversion program operated by the Department of Human Services. The diverted youth receive substantial rehabilitative care and services, including mental health treatment, family therapy, mentoring, and substance abuse treatment, all of which are recognized services that keep youth out of trouble. As I reported during our performance oversight hearing, OAG is actively monitoring the outcomes of the youth who have been diverted, and as of December 2016, youth who completed the ACE diversion program have nearly an 80% success rate for non-recidivism. Ensuring the ACE program has adequate funding is a priority for the District’s public safety goals.

Finally, I strongly support funding for the Healthy Steps Pediatric Primary Care Demonstration Program, an evidence-based, proven strategy to build resilience and reduce

childhood trauma, as outlined in Bill 22-203, the “Infant and Toddler Developmental Health Services Act of 2017.” In the District, 47 percent of children and teens have experienced a traumatic event, such as the death or incarceration of a parent, witnessing or being a victim of violence, or living with someone who has been suicidal or who has a drug or alcohol problem, according to recently released federal children’s health data. The research is clear that untreated childhood trauma leads to a series of negative life outcomes, including involvement in crime and the criminal justice system, which impacts public safety. The District should fully invest in programs like Healthy Steps that are shown to work to reduce childhood trauma in the District’s most vulnerable neighborhoods.

IV. Budget Support Act and Budget Request Act Recommendations

I will now focus the remainder of my time on Budget Support Act language OAG proposes for FY 2019, and additional Budget Request Act language. I have provided language to the Committee, and I will briefly summarize our requests for the public record.

Housing Receivership Funding Amendment Act of 2018

OAG requests that Drug, Firearm, or Prostitution-Related Nuisance Abatement Fund be amended so that money deposited in the fund can be used for mold inspections. Mold inspections are not funded through any District agency. Often residents who are forced to live in mold-infested conditions do not have the resources to pay for mold inspections. Allowing our attorneys and investigators to conduct these inspections while investigating slumlords will greatly assist in ensuring the health, safety, and welfare of District residents. I am advised that this amendment would not require additional funding.

Interest Rate on Judgments Amendment Act of 2018

This amendment sets a cap on interest, when authorized by law, on judgments or decrees against the District of Columbia, its officers, or its employees acting within the scope of their employment. The cap will be the lower of either four percent or the statutory judgment interest rate. The statutory judgment interest rate is calculated based on the rate of interest set by the Secretary of the Treasury pursuant to the Internal Revenue Code. Currently, although the statutory judgment interest rate is far lower than four percent, the District still pays four percent interest on all judgments. This is the case even though all other litigants are only required to pay the statutory interest rate. This amendment would ensure that the District does not pay an inflated interest rate when interest rates are low, and will ensure that the District is treated the same as any other litigant.

Attorney General Procurement Authority Amendment Act of 2018

This amendment updates OAG's independent procurement authority to allow for our IT personnel to procure goods without first requiring permission from the Office of the Chief Financial Officer. OAG's current IT procurement status is a vestige from when OAG was a subordinate Executive agency. This amendment will align our IT procurement procedure with our status as an independent agency.

Budget Request Act Language

OAG requests that it be authorized to pay for out-of-state bar dues for attorneys who need those memberships in order to appropriately carry out their job responsibilities. Currently, when OAG attorneys are required to appear in cases outside of the District, OAG has to pay significant fees to get permission to practice in that jurisdiction. Allowing OAG attorneys to maintain memberships in out-of-state bars critical to their employment is a cheaper, simpler, and logical

step. I anticipate that approximately 10 attorneys would qualify for use of this authority. To be clear, OAG would not need additional funding for this amendment. This is simply an issue of authority.

Conclusion

Consistent with the will of District voters, OAG has transitioned into an independent agency that engages District citizens, constituencies, and other partners to uphold and protect the public interest, while continuing to provide distinguished legal services to the District of Columbia and its agencies. As OAG enters its fourth year as an independent office led by an elected Attorney General, the agency has diligently worked to provide high-quality legal representation while upholding and protecting the public interest. From improving public safety to protecting consumers to contributing to the District's treasury, OAG has made significant and lasting contributions that fundamentally affect District residents. With a FY 2019 local budget to include the enhancements outlined in my testimony, the amount OAG has determined is necessary to operate the agency, OAG can build upon its accomplishments and continue making meaningful contributions to the District.

Thank you for the opportunity to highlight some of the important work of the Office of the Attorney General and our budget priorities. OAG is committed to providing the District with the highest-quality legal services and promoting the public interest. My team and I are pleased to answer any questions that the members of the Committee may have. Thank you.